

### Remarks

Claims 26-62 are pending in the present application. Applicants thank the Examiner for allowing claim 31 and indicating that claim 62 contains allowable subject matter. In response, claim 62 has been amended to be in independent form and include the limitations of the base claim 44, thereby rendering claim 62 to be in allowable condition.

Claims 26-28, 32-39, 44-46, 51-58 and 59-61 are rejected under 35 U.S.C. § 103(a) as being anticipated by Japanese Publication No. 10-35320 (Tatsuhiko). Applicants respectfully submit that claims 26-28, 32-39, 44-46, 51-58 and 59-61 are not anticipated by Tatsuhiko, for at least the following reasons.

Claim 26 recites "capturing an image of at least part of the surrounding area of the motor vehicle by a first optical opening of a camera device," and "capturing an image of at least part of the interior of the motor vehicle by a second optical opening of the camera device." While the Examiner concedes that "Tatsuhiko does not teach such [a] camera [that] contains two optical openings," the Examiner nevertheless contends that "it would have been an obvious matter of design choice to modify the Tatsuhiko reference by having two optical openings to capture images . . . alternatively, since applicant has not disclosed two optical openings in a camera would have any particular advantages when it comes to taking images alternatively, and it appears that having a camera that rotates to capture images alternatively would perform equally well." (Office Action, p. 4). Applicants will address the Examiner's contentions in detail below.

First, the Examiner's contentions are self-contradictory: the Examiner simultaneously contends that it would have been obvious to "modify the Tatsuhiko reference by

having two optical openings to capture images . . . alternatively," and that "it appears that having a camera that rotates to capture images alternatively would perform equally well." If the Examiner is correct in asserting that "a camera that rotates to capture images alternatively would perform equally well," then there is clearly no motivation to modify the rotating camera device of Tatsuhiko by incorporating two optical openings, since the Examiner asserts that there is no benefit from having two optical openings in a camera.

Second, in contrast to the Examiner's assertion that "applicant has not disclosed two optical openings in a camera would have any particular advantages when it comes to taking images alternatively," Applicants' specification clearly explains the advantages of the claimed invention:

Furthermore, it is advantageous when switching back and forth between capturing image signals from the surrounding area and image signals from the interior to switch back and forth as soon as partial areas of the maximum area that can be captured by the camera device have been captured. For example, switching back and forth may be performed after image columns or image rows have been captured or after groups of pixels have been captured. As the image data also has to be transmitted to the processing unit and processed there, this method has the advantage that it allows quicker switching back and forth between capturing the interior and the exterior, so that the shift between two captured images, e.g., of the exterior, which is based on the movement of the vehicle, is reduced. (P. 3, l. 14-27).

As can be seen from above, the two optical openings allows rapid switching between capturing the interior and the exterior, which cannot be achieved by the rotating camera of Tatsuhiko.

Third, while the Examiner contends that "it would

have been an obvious matter of design choice to modify the Tatsuhiko reference by having two optical openings," the obviousness conclusion is defeated as a matter of law if the proposed modification would **change the principle of operation** of the prior art invention being modified." MPEP 2143.01 (citing In re Ratti, 270 F.2d 810 (C.C.P.A. 1959)). As explicitly noted by the Examiner, Tatsuhiko operates to alternatively capture images inside and outside the vehicle alternatively **by rotating the camera**, which is fundamentally different from having two optical openings for capturing images in different directions (thereby negating any need for rotating the camera).

Fourth, while the Examiner contends that "it would have been an obvious matter of design choice to modify the Tatsuhiko reference by having two optical openings to capture images . . . alternatively, **since applicant has not disclosed two optical openings in a camera would have any particular advantages** when it comes to taking images alternatively," the motivation to modify a prior art reference cannot be based on the teachings of the Applicants; instead, there must be some **teaching or suggestion in the prior art** to make the asserted modification, and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Clearly, there is no suggestion in Tatsuhiko to make the modification asserted by the Examiner, particularly since the Examiner asserts that there is no benefit from having two optical openings in a camera.

In summary, neither Tatsuhiko nor any of the other cited references suggests (or provides any motivation to modify the prior art to arrive at) the above-recited feature of claim 26 regarding two optical openings for alternately capturing interior and exterior images. For at least this reason, Applicants respectfully submit that claim 26 and its dependent claims 27-28 and 32-39 are not anticipated.

Claim 44 recites limitations substantially similar to the allowable subject matter of claim 26, i.e., claim 44 recites "a camera device **having a first optical opening and a second optical opening**, wherein the camera device is configured to **alternately capture an image of at least part of the interior of the motor vehicle by the first optical opening and capture an image of at least part of the surrounding area of the motor vehicle by the second optical opening.**"

Accordingly, Applicants respectfully submit that claim 44 and its dependent claims 45-46, 51-58 and 59-61 are allowable for the reasons stated in connection with claim 26.

Claims 29-30 and 47-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuhiko in view of U.S. Patent No. 5,293,427 (Ueno). Claims 29-30 ultimately depend from allowable claim 26, and claims 47-50 ultimately depend from allowable claim 44. Applicants respectfully note that Ueno simply does not remedy the deficiencies of Tatsuhiko as applied against parent claims 26 and 44. Accordingly, dependent claims 29-30 and 47-50 are allowable over the combination of Tatsuhiko and Ueno for the reasons stated in connection with claims 26 and 44.

Claims 40-41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuhiko in view of U.S. Patent No. 5,845,000 (Breed). Claims 40-41 ultimately depend from allowable claim 26. Applicants respectfully note that Breed simply does not remedy the deficiencies of Tatsuhiko as applied against parent claim 26. Accordingly, dependent claims 40-41 are allowable over the combination of Tatsuhiko and Breed for the reasons stated in connection with claim 26.

Claims 42-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuhiko in view of U.S. Patent No. 6,396,954 (Kondo). Claims 42-43 ultimately depend from allowable claim 26. Applicants respectfully note that Kondo

simply does not remedy the deficiencies of Tatsuhiko as applied against parent claim 26. Accordingly, dependent claims 42-43 are allowable over the combination of Tatsuhiko and Kondo for the reasons stated in connection with claim 26.

Claim 58 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Tatsuhiko in view of U.S. Patent No. 5,065,236 (Diner). Claim 58 ultimately depends from allowable claim 44. Applicants respectfully note that Diner simply does not remedy the deficiencies of Tatsuhiko as applied against parent claim 44. Accordingly, dependent claim 58 is allowable over the combination of Tatsuhiko and Diner for the reasons stated in connection with claim 44.

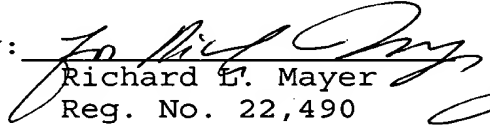
#### CONCLUSION

It is respectfully submitted that the subject matter of the present application is new, non-obvious, and useful. Prompt consideration and allowance of the application are respectfully requested.

Respectfully submitted,

Dated: August 27, 2004

By:

 (by  
Richard L. Mayer  
Reg. No. 22,490

KENYON & KENYON  
One Broadway  
New York, NY 10004  
(212) 425-7200

CUSTOMER NO. 26646

1,400.  
36,197)